

9-30-15

ORDINANCE NO. 29902

An ordinance changing the zoning classification on the following property:

BEING Lot D in City Block 3/6983, Tracts 8 and 9 in City Block 6983, part of City Block 6983, and Tract 1 in City Block 6114; fronting approximately 530 feet on the south line of Illinois Avenue; fronting approximately 297 feet on the east line of Cockrell Hill Road; and containing approximately 2.7919 acres,

from a CR Community Retail District, an MF-2(A) Multifamily District, and an LI Light Industrial to an RR Regional Retail District; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the property described in this ordinance; and

WHEREAS, the city council finds that it is in the public interest to change the zoning classification; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the zoning classification is changed from a CR Community Retail District, an MF-2(A) Multifamily District, and an LI Light Industrial to an RR Regional Retail District on the property described in Exhibit A, which is attached to and made a part of this ordinance ("the Property").

SECTION 2. That, pursuant to Section 51A-4.701 of Chapter 51A of the Dallas City Code, as amended, the property description in Section 1 of this ordinance shall be construed as including the area to the centerline of all adjacent streets and alleys.

SECTION 3. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

SECTION 4. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 5. That the zoning ordinances of the City of Dallas shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication, in accordance with the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By 

Assistant City Attorney

OCT 14 2015

Passed _____

Exhibit A
LEGAL DESCRIPTION

BEING a tract of land located in the City of Dallas, Dallas County, Texas, City Block No. 6983, part of the Abraham Bast Survey, Abstract No. 109, being all of that called 1.051 acre tract of land described in deed to Terry D. Smith and wife Patricia K. Smith as recorded in Volume 98079, Page 3166, Deed Records, Dallas County, Texas, also being all of Lot D, Block 3/6983, Miller/Kyle Addition, an addition to the City of Dallas according to the plat thereof as recorded in Volume 91141, Page 2844, Deed Records, Dallas County, Texas, said Lot D being part of a 0.7307 acre tract of land described in deed to Jonathan Kyle Miller, Inc. as recorded in Volume 91158, Page 5245, Deed Records, Dallas County, Texas, also being all of that called 0.323 acre tract of land described in deed to Roland Orville Wright as recorded in Volume 80004, Page 2746, Deed Records, Dallas County, Texas, also being all of that called 0.362 acre tract of land described in deed to Stephan B. Lucas and wife Mary G. Lucas as recorded in Instrument No. 20080070249, Deed Records, Dallas County, Texas, also being part of that called 3.0 acre abandoned railroad right-of-way tract described in deed to the City of Dallas as recorded in Instrument No. 200900071519, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod with plastic cap stamped "RPLS 5199" set at the northeast end of a right-of-way corner clip located at the intersection of the east right-of-way line of Cockrell Hill Road (variable width right-of-way) and the south right-of-way line of Illinois Avenue (variable width R.O.W.);

THENCE, along the south right-of-way line of Illinois Avenue and the north line of said Lot D, North 87 degrees 42 minutes 56 seconds East, a distance of 148.26 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set, being the most northerly northeast corner of said Lot D;

THENCE, continuing along the south right-of-way line of Illinois Avenue and along the east line said Lot D, South 00 degrees 45 minutes 27 seconds East, a distance of 4.96 feet to a 1/2" iron rod found, being in the north line of the remainder of said 3.0 acre City of Callas tract;

THENCE, continuing along the south right-of-way line of Illinois Avenue and along the north line of said City of Dallas remainder tract, North 87 degrees 50 minutes 09 seconds East, a distance of 96.73 feet to a 1/2" iron rod found, being the northwest corner of aforementioned 1.051 acre Smith tract;

THENCE, continuing along the south right-of-way line of Illinois Avenue and along the north line of said 1.051 acre tract as follows:

North 89 degrees 11 minutes 00 seconds East, a distance of 38.34 feet to a 1/2" iron rod found, the beginning of a curve to the right;

Along said curve to the right through a central angle of 01 degrees 00 minutes 00 seconds, a radius of 11,414.15 feet, an arc length of 199.21 feet, a chord bearing of North 89

degrees 41 minutes 00 seconds East and a chord distance of 199.21 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set;

South 89 degrees 49 minutes 00 seconds East, a distance of 53.50 feet to a 1/2" iron rod found for the northeast corner of said 1.051 acre tract, being the northwest corner of a 12.2343 acre tract of land described in deed to the City of Dallas as recorded in Volume 75041, Page 427, Deed Records, Dallas County, Texas;

THENCE, departing the south right-of-way line of Illinois Avenue, along the east line of said 1.051 acre tract and the west line of said 12.2343 acre tract, South 00 degrees 08 minutes 30 seconds West, a distance of 313.84 feet to a 1/2" iron rod found for the south corner of said 1.051 acre tract, being in the northeast line of said 3.0 acre City of Dallas tract;

THENCE, along the northeast line of said 3.0 acre tract and the southwest line of said 1.051 acre tract, North 42 degrees 53 minutes 57 seconds West, a distance of 237.59 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set;

THENCE, departing the southwest line of said 1.051 acre tract, over and across said 3.0 acre tract, South 88 degrees 46 minutes 11 seconds West, a distance of 100.09 feet to a 1/2" iron rod found for the southeast corner of aforementioned Lot D, being the northeast corner of Lot B, Block 3/6983, Village Green No. 3 Addition as recorded in Volume 70, Page 1264, Deed Records, Dallas County, Texas, being in the southwest line of said 3.0 acre tract;

THENCE, along the south line of said Lot D and the north line of said Lot B, South 88 degrees 46 minutes 11 seconds West, a distance of 101.37 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set, being the most northerly northwest corner of said Lot B and the northeast corner of aforementioned 0.323 acre Wright tract;

THENCE, departing the south line of said Lot D, along a west line of said Lot B, and along the east line of said 0.323 acre tract, South 00 degrees 14 minutes 32 seconds West, a distance of 83.35 feet to a 1/2" iron rod found, being the southeast corner of said 0.323 acre tract and the northeast corner of aforementioned 0.362 Lucas tract;

THENCE, continuing along a west line of said Lot b and the east line of said 0.362 acre tract, South 00 degrees 14 minutes 32 seconds West, a distance of 90.00 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set, being the southeast corner of said 0.362 acre tract and an "ell" corner of said Lot B being in the north line of Peppertree Lane (a 50' private drive);

THENCE, along the westerly north line of said Lot B, the north line of Peppertree Lane, and the south line of said 0.362 acre tract, North 89 degrees 38 minutes 41 seconds West, a distance of 178.50 feet to a 1/2" iron rod set, being the most westerly northwest corner of said Lot B, the southwest corner of said 0.362 acre tract, and being in the east right-of-way of Cockrell Hill Road (variable width R.O.W.);

THENCE, along the east right-of-way line of Cockrell Hill Road and the west line of said 0.362 acre tract, North 00 degrees 30 minutes 03 seconds West, a distance of 85.42 feet to a 1/2" iron

rod found, being the northwest corner of said 0.362 acre tract and the southwest corner of said 0.323 acre tract;

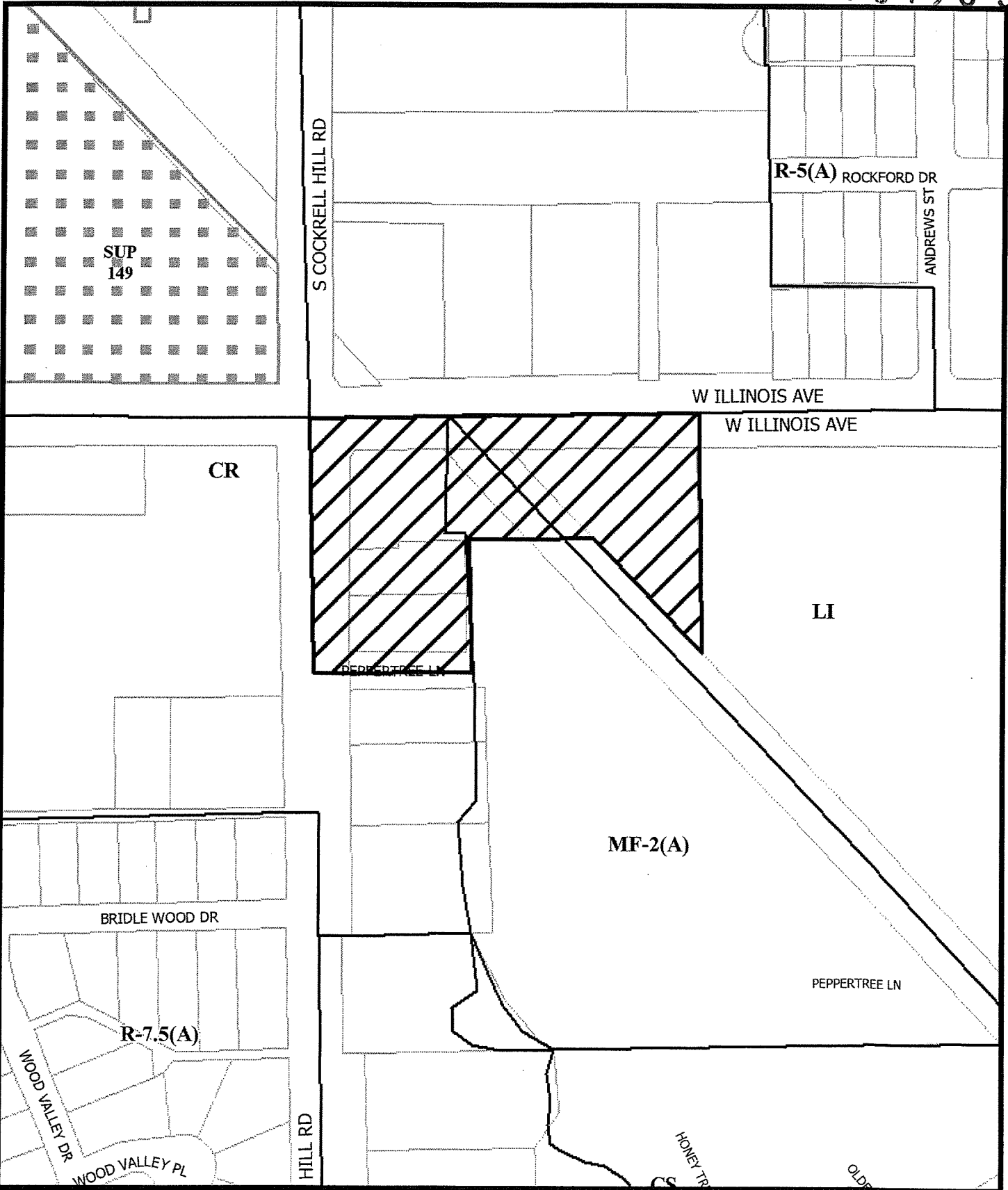
THENCE, continuing along the east line of Cockrell Hill Road and along the west line of said 0.323 acre tract, North 00 degrees 30 minutes 03 seconds West, a distance of 72.87 feet to a 1/2" iron rod found for the northwest corner of said 0.323 acre tract and the southwest corner of said Lot D;

THENCE, continuing along the east line of Cockrell Hill Road and along the west line of said Lot D, North 00 degrees 30 minutes 03 seconds West, a distance of 141.60 feet to a 5/8" iron rod with cap stamped "RPLS 5199" for the southwest end of the aforementioned right-of-way corner clip;

THENCE, continuing along the east line of Cockrell Hill Road and along the west line of said Lot D and along said corner clip, North 43 degrees 29 minutes 24 seconds East, a distance of 14.33 feet to the **POINT OF BEGINNING** and containing 121,617 square feet or 2.7919 acres of land more or less.

NOTICE:

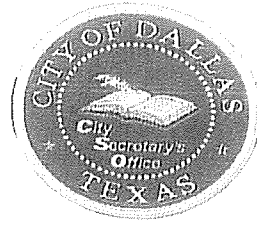
"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."



1:2,400

ZONING MAP

Case no: Z145-287
 Date: 8/18/2015



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL OCT 14 2015

ORDINANCE NUMBER 29902

DATE PUBLISHED OCT 17 2015

ATTESTED BY:

WHEREAS, the deed restrictions in the attached instrument have been volunteered in connection with property at the southeast corner of the intersection of Illinois Avenue and Cockrell Hill Road which is the subject of Zoning Case No. Z145-287(AF); and

WHEREAS, the City Council desires to accept the deed restrictions in the attached instrument; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:


Section 1. That the deed restrictions in the attached instrument are accepted by the City Council of the City of Dallas to be used in conjunction with the development of property that is the subject of Zoning Case No. Z145-287(AF).

Section 2. That these deed restrictions must be filed in the Deed Records of Dallas County, Texas.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By  _____
Assistant City Attorney

APPROVED _____ APPROVED _____ APPROVED _____
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

PROPOSED DEED RESTRICTIONS

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DALLAS) KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, Terry D. Smith and Patricia K. Smith, ("Owner 1"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Abraham Bast Survey, Abstract No. 109, City Block Number 6114, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Howard P. Alexander and Sarah G. Alexander, by deed dated April 23, 1998, and recorded in Volume 98079, Page 3166, in the Deed Records of Dallas County, Texas;

The undersigned, Jonathan Kyle Miller, Inc., a corporation ("Owner 2"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Abraham Bast Survey, Abstract No. 109, Lot D, City Block Number 3/6983, City of Dallas, ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Mobil Oil Corporation, by deed dated August 14, 1991, and recorded in Volume 91158, Page 5245, in the Deed Records of Dallas County, Texas;

The undersigned, Roland Orville Wright, ("Owner 3"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Abraham Bast Survey, Abstract No. 109, City Block Number 6983, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Wallace H. Savage, by deed dated January 7, 1980, and recorded in Volume 80004, Page 2746, in the Deed Records of Dallas County, Texas; and

The undersigned, Stephen B. Lucas and Mary G. Lucas, ("Owner 4"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the Abraham Bast Survey, Abstract No. 109, City Block Number 6983, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by Daniel E. Cooper, by deed dated March 4, 2008, and recorded as instrument No. 20080070249 and No. 200900071519 in the Deed Records of Dallas County, Texas, being more particularly described as follows:

***BEGINNING** at a 5/8" iron rod with plastic cap stamped "RPLS 5199" set at the northeast end of a right-of-way corner clip located at the intersection of the east right-of-way line of Cockrell Hill Road (variable width right-of-way) and the south right-of-way line of Illinois Avenue (variable width R.O.W.);*

***THENCE**, along the south right-of-way line of Illinois Avenue and the north line of said Lot D, North 87 degrees 42 minutes 56 seconds East, a distance of 148.26 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set, being the most northerly northeast corner of said Lot D;*

***THENCE**, continuing along the south right-of-way line of Illinois Avenue and along the east line said Lot D, South 00 degrees 45 minutes 27 seconds East, a distance of 4.96 feet to a 1/2" iron rod found, being in the north line of the remainder of said 3.0 acre City of Callas tract;*

Deed Restrictions: Z145-287

Z145-287(AF)

THENCE, continuing along the south right-of-way line of Illinois Avenue and along the north line of said City of Dallas remainder tract, North 87 degrees 50 minutes 09 seconds East, a distance of 96.73 feet to a 1/2" iron rod found, being the northwest corner of aforementioned 1.051 acre Smith tract;

THENCE, continuing along the south right-of-way line of Illinois Avenue and along the north line of said 1.051 acre tract as follows:

North 89 degrees 11 minutes 00 seconds East, a distance of 38.34 feet to a 1/2" iron rod found, the beginning of a curve to the right;

Along said curve to the right through a central angle of 01 degrees 00 minutes 00 seconds, a radius of 11,414.15 feet, an arc length of 199.21 feet, a chord bearing of North 89 degrees 41 minutes 00 seconds East and a chord distance of 199.21 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set;

South 89 degrees 49 minutes 00 seconds East, a distance of 53.50 feet to a 1/2" iron rod found for the northeast corner of said 1.051 acre tract, being the northwest corner of a 12.2343 acre tract of land described in deed to the City of Dallas as recorded in Volume 75041, Page 427, Deed Records, Dallas County, Texas;

THENCE, departing the south right-of-way line of Illinois Avenue, along the east line of said 1.051 acre tract and the west line of said 12.2343 acre tract, South 00 degrees 08 minutes 30 seconds West, a distance of 313.84 feet to a 1/2" iron rod found for the south corner of said 1.051 acre tract, being in the northeast line of said 3.0 acre City of Dallas tract;

THENCE, along the northeast line of said 3.0 acre tract and the southwest line of said 1.051 acre tract, North 42 degrees 53 minutes 57 seconds West, a distance of 237.59 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set;

THENCE, departing the southwest line of said 1.051 acre tract, over and across said 3.0 acre tract, South 88 degrees 46 minutes 11 seconds West, a distance of 100.09 feet to a 1/2" iron rod found for the southeast corner of aforementioned Lot D, being the northeast corner of Lot B, Block 3/6983, Village Green No. 3 Addition as recorded in Volume 70, Page 1264, Deed Records, Dallas County, Texas, being in the southwest line of said 3.0 acre tract;

THENCE, along the south line of said Lot D and the north line of said Lot B, South 88 degrees 46 minutes 11 seconds West, a distance of 101.37 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set, being the most northerly northwest corner of said Lot B and the northeast corner of aforementioned 0.323 acre Wright tract;

THENCE, departing the south line of said Lot D, along a west line of said Lot B, and along the east line of said 0.323 acre tract, South 00 degrees 14 minutes 32 seconds West, a distance of 83.35 feet to a 1/2" iron rod found, being the southeast corner of said 0.323 acre tract and the northeast corner of aforementioned 0.362 Lucas tract;

THENCE, continuing along a west line of said Lot b and the east line of said 0.362 acre tract, South 00 degrees 14 minutes 32 seconds West, a distance of 90.00 feet to a 5/8" iron rod with plastic cap stamped "RPLS 5199" set, being the southeast corner of said 0.362 acre tract and an "ell" corner of said Lot B being in the north line of Peppertree Lane (a 50' private drive);

THENCE, along the westerly north line of said Lot B, the north line of Peppertree Lane, and the south line of said 0.362 acre tract, North 89 degrees 38 minutes 41 seconds West, a distance of 178.50 feet to a 1/2" iron rod set, being the most westerly northwest corner of said Lot B, the southwest corner of said 0.362 acre tract, and being in the east right-of-way of Cockrell Hill Road (variable width R.O.W.);

THENCE, along the east right-of-way line of Cockrell Hill Road and the west line of said 0.362 acre tract, North 00 degrees 30 minutes 03 seconds West, a distance of 85.42 feet to a 1/2" iron rod found, being the northwest corner of said 0.362 acre tract and the southwest corner of said 0.323 acre tract;

Deed Restrictions: Z145-287

Z145-287(AF)

THENCE, continuing along the east line of Cockrell Hill Road and along the west line of said 0.323 acre tract, North 00 degrees 30 minutes 03 seconds West, a distance of 72.87 feet to a 1/2" iron rod found for the northwest corner of said 0.323 acre tract and the southwest corner of said Lot D;

THENCE, continuing along the east line of Cockrell Hill Road and along the west line of said Lot D, North 00 degrees 30 minutes 03 seconds West, a distance of 141.60 feet to a 5/8" iron rod with cap stamped "RPLS 5199" for the southwest end of the aforementioned right-of-way corner clip;

*THENCE, continuing along the east line of Cockrell Hill Road and along the west line of said Lot D and along said corner clip, North 43 degrees 29 minutes 24 seconds East, a distance of 14.33 feet to the **POINT OF BEGINNING** and containing 121,617 square feet or 2.7919 acres of land more or less.*

NOTICE:

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

II.

Owner 1, Owner 2, Owner 3, and Owner 4 (collectively the "Owners") do hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

1. Maximum Height for a building shall be fifty-four (54) feet.

III.

These restrictions shall continue in full force and effect for a period of 20 years from the date of execution, and shall automatically be extended for additional periods of 10 years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated as to any portion of the Property, upon application to the City of Dallas by the current owner of that portion of the Property, without the concurrence of the owners of the remaining portion of the Property. These restrictions may be amended or terminated only after a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these restrictions, the Owners must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

Deed Restrictions: Z145-287

Z145-287(AF)

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owners agree that these restrictions inure to the benefit of the City. The Owners hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owners agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owners agree that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VII.

The Owners agree to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owners who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of Chapter 51A of the Dallas City Code, as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owners understand and agree that this document shall be governed by the laws of the State of Texas.

XI.

The Owners certify and represent that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

Deed Restrictions: Z145-287

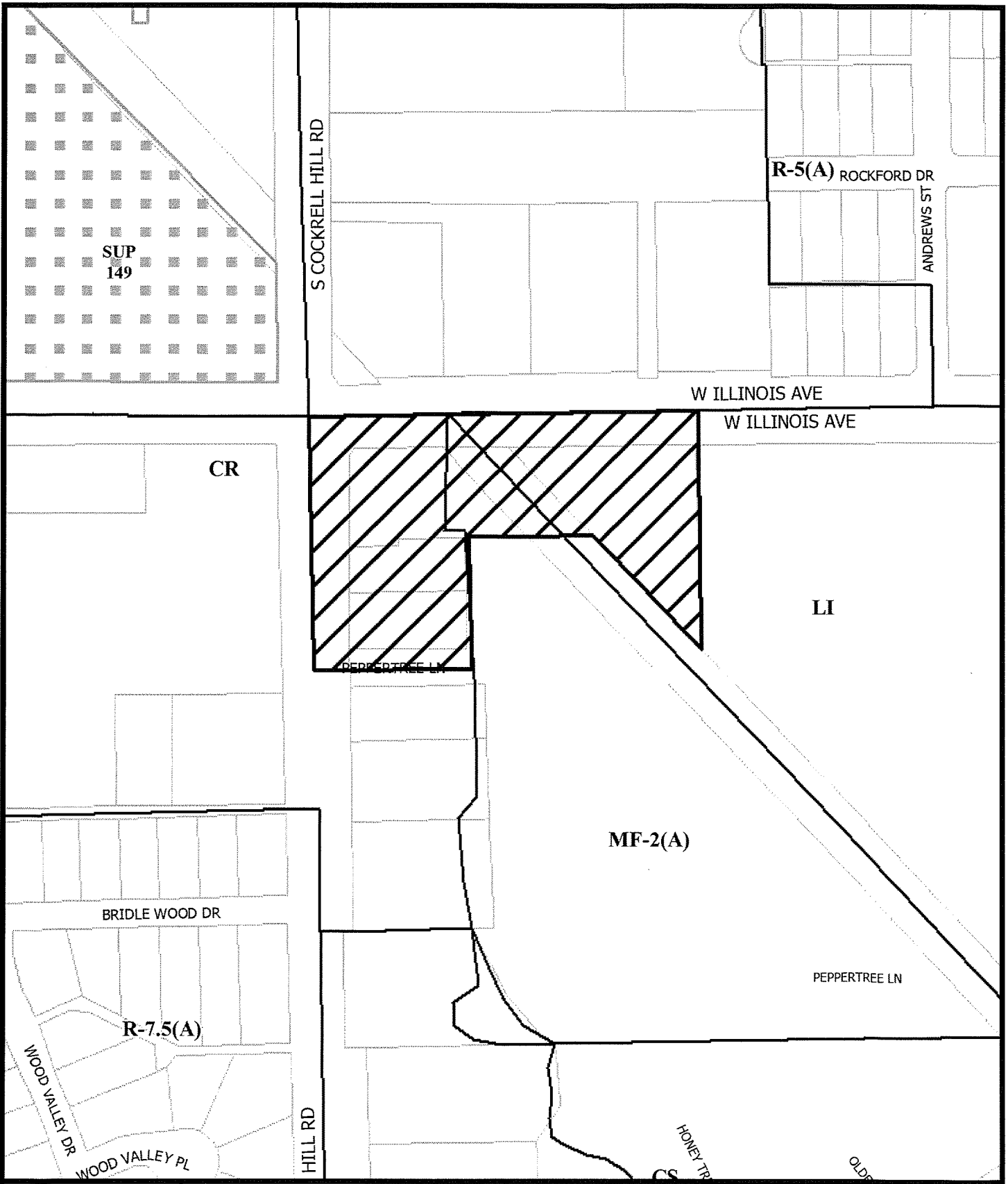
XII.

The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

[Please see attached pages for signatures of Property Owners and Lien Holders]

APPROVED AS TO FORM:
WARREN M.S. ERNST, City Attorney

By: _____
Assistant City Attorney



1:2,400

ZONING MAP

Case no: Z145-287
 Date: 8/18/2015